

§ 1.963a

38 CFR Ch. I (7–1–00 Edition)

notification of indebtedness beyond the time customarily required for mailing (including forwarding). If the requester does substantiate that there was such a delay in the receipt of the notice of indebtedness, the Chairperson shall direct that the 180 day period be computed from the date of the requester's actual receipt of the notice of indebtedness.

(Authority: 38 U.S.C. 5302 (a) & (c))

[39 FR 26400, July 19, 1974, as amended at 44 FR 59906, Oct. 17, 1979; 48 FR 27400, June 15, 1983; 50 FR 38803, Sept. 25, 1985; 58 FR 3840, Jan. 12, 1993]

§ 1.963a Waiver; erroneous payments of pay and allowances.

The provisions applicable to VA (including those for appeals and refunds) concerning waiver actions relating to erroneous payments to VA employees of pay and allowances and travel, transportation, and relocation expenses and allowances under 5 U.S.C. 5584 are set forth at 4 CFR Parts 91 and 92. The members of Committees on Waivers and Compromises assigned to waiver actions under § 1.955 of this part are hereby delegated all authority granted the Secretary under 5 U.S.C. 5584 and 4 CFR Parts 91 and 92 to grant waiver in whole or in part of a claim aggregating not more than \$1,500, to recommend approval of waiver in whole or in part of a claim aggregating more than \$1,500, and to deny waiver of a claim for any amount. The following are the only provisions of §§ 1.955 through 1.970 of this part applicable to waiver actions concerning erroneous payments of pay and allowances and travel, transportation, and relocation expenses and allowances under 5 U.S.C. 5584: §§ 1.955(a) through (e)(2), 1.956(a) (introductory text) and (a)(3), 1.959, 1.960, 1.963a, and 1.967(c).

(Authority: 5 U.S.C. 5584, 38 U.S.C. 501; 4 CFR Parts 91 and 92)

[60 FR 53276, Oct. 13, 1995]

§ 1.964 Waiver; loan guaranty.

(a) *General.* Any indebtedness of a veteran or the indebtedness of the spouse shall be waived only when the following factors are determined to exist:

(1) Following default there was a loss of the property which constituted security for the loan guaranteed, insured or made under chapter 37 of title 38 United States Code;

(2) There is no indication of fraud, misrepresentation, or bad faith on the part of the person or persons having an interest in obtaining the waiver; and

(3) Collection of such indebtedness would be against equity and good conscience.

(b) *Spouse.* The waiver of a veteran's indebtedness shall inure to the spouse of such veteran insofar as concerns said indebtedness, unless the obligation of the spouse is specifically excepted. However, the waiver of the indebtedness of the veteran's spouse shall not inure to the benefit of the veteran unless specifically provided for in the waiver decision.

(c) *Surviving spouse or former spouse.* A surviving spouse of a veteran or the former spouse of a veteran may be granted a waiver of the indebtedness provided the requirements of paragraph (a) of this section are met.

(d) *Preservation of Government rights.* In cases in which it is determined that waiver may be granted, the action will take such form (covenant not to sue, or otherwise) as will preserve the rights of the Government against obligors other than the veteran or the spouse.

(e) *Application.* A request for waiver of an indebtedness under this section shall be made within one year after the date on which the debtor receives, by Certified Mail-Return Receipt Requested, written notice from VA of the indebtedness. If written notice of indebtedness is sent by means other than Certified Mail-Return Receipt Requested, then there is no time limit for filing a request for waiver of indebtedness under this section.

(Authority: 38 U.S.C. 5302(b))

(f) *Exclusion.* Except as otherwise provided in this section, the indebtedness of a nonveteran obligor under the loan program is excluded from waiver.

(Authority:

38 U.S.C. 5302 (b) and (c))

[39 FR 26400, July 19, 1974, as amended at 44 FR 59907, Oct. 17, 1979; 57 FR 33875, July 31, 1992; 58 FR 3840, Jan. 12, 1993]